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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,130	02/22/2002	David Ernest Johnston	01-002	8493

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FREUDENBERG-NOK GENERAL PARTNERSHIP  
LEGAL DEPARTMENT  
47690 EAST ANCHOR COURT  
PLYMOUTH, MI 48170-2455

EXAMINER
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PATEL, VISHAL A

ART UNIT	PAPER NUMBER
3679	

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/081,130	JOHNSTON, DAVID ERNEST
	<b>Examiner</b>	<b>Art Unit</b>
	Vishal Patel	3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 July 2005.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)               |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ .  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter “wherein the polymeric liner is free from any radial contact with the case”, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. This is the case since the polymeric liner does contact a radial portion of a case and then is pulled away from the case, so in conclusion the polymeric liner is not free from any radial contact with the case.

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “wherein the polymeric liner is free from any radial contact with the case” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure

must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4, 6-9, 11-14 and 16-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Cather Jr. (US. 4,504,067).

Regarding claim 1: Cather discloses a shaft seal assembly comprising a case (10) having an axial portion and a radial portion (axial portion 20 and radial portion 24), an elastomeric seal body (body 12 that contacts the axial portion) molded (method limitation given no patentable weight) to the case, an elastomeric lip portion (lip portion 26) extending from the seal body, a first end of the elastomeric lip portion originating adjacent a hinge portion (hinge portion above a liner 14), a polymeric liner (14) bonded (method limitation given no patentable weight) along its full length of the elastomeric lip (the liner is bonded to the full length of the elastomeric lip), the

first end of the lip portion and a portion of the liner extending over at least a portion of the radial portion of the case, the entire polymeric liner being movable with the elastomeric lip portion about the hinge portion toward and away from the case (this is the case since the polymeric is free from bonding to the case).

Regarding claim 2: The case includes the radial portion having a length (length of 24). The elastomeric seal body includes a radial portion (radial portion of 12) having a length less than the radial portion of the case (this is the case since the elastomeric body 12 does not extend along entire length of 24). The elastomeric lip portion (26) extends over at least a portion of the length of the radial portion of the case (the elastomeric lip portion 26 that is adjacent to the radial portion 24).

Regarding claim 3: The elastomeric lip portion is integrally formed with the elastomeric seal body and extends over the length of the radial portion of the case of which the radial portion of the elastomeric seal body does not extend (this is the case since the elastomeric body is 12 and the elastomeric lip portion 26 starts at 24 to tip of 30).

Regarding claim 4: The polymeric liner is bonded to the elastomeric lip portion (the liner is bonded to the elastomeric lip portion 26, column 2, lines 68-69, but this is method limitation that is not given patentable weight).

Regarding claim 6: A seal assembly including a case (10) having a radial portion (24), an elastomeric seal body (12) molded to case and not covering the entire radial portion of the case (this is the case since the elastomeric body is 12 and the elastomeric lip portion 26 starts at 24 to tip of 30). An elastomeric lip portion (the elastomeric lip portion 26 starting at 24 to tip of 30) extending from a hinge portion (hinge portion adjacent to the spring 16 and between the

elastomeric lip 26 and the body 12) of the elastomeric seal body and covering the radial portion of the case not covered by the elastomeric seal body. A polymeric liner (14) bonded along its full length of the elastomeric lip portion, a portion of the elastomeric lip portion and a portion of the polymeric liner extending over at least a portion of the radial portion of the case (portion of the elastomeric lip and portion of the polymeric liner that is on a portion of the radial portion 24 near 22). The entire polymeric liner being movable about the hinge portion with the elastomeric lip portion toward and away from the case (the liner moves away and toward the case in response to the shaft 40).

Regarding claim 7: Material of the elastomeric lip portion adjacent the elastomeric seal body and the radial portion of the case forms a flexible hinge (material of the elastomeric lip adjacent seal body and after the spring 16).

Regarding claim 8: The polymeric line is formed from polytetrafluoroethylene (column 3, line 41).

Regarding claim 9: The polymeric liner includes a contact surface (surface of the polymeric line contacting the shaft 40).

Regarding claim 11: A seal assembly (seal assembly of Cather) for use with a rotating element (40) comprising a case (10) having an axial portion (20) and a radial portion (24), a seal body (12) bonded to at least the radial portion of the case, a hinge portion (hinge between 12 and lip portion) extending from the seal body adjacent to a terminating section of the radial portion of the case. A lip (lip formed by 26) extending from the hinge portion (the lip 26 extending from the hinge). A liner (14) bonded along its full length to the lip over the full length of the lip, a portion of the lip and a portion of the liner extending over at least a portion of the radial portion

of the case, the entire liner being movable with the lip portion about the hinge portion toward and away from the case.

Regarding claim 12: The seal body, the hinge portion, and the lip are integrally formed together (the seal body, hinge portion and the lip are integrally formed together).

Regarding claim 13: The seal body, the hinge portion, and the lip are formed from an elastomeric material (the seal body, the hinge portion and the lip are formed of elastomeric material).

Regarding claim 14: The liner is formed from polytetrafluoroethylene.

Regarding claim 16: The radial portion of the case has a length that is greater than the radial length of the seal body (this the case since the body extends only a portion of the radial length, the hinge extends over a second portion of the radial length and the lip extends over a third portion of the radial length).

Regarding claim 17: The hinge extends over the radial portion of the case that is not covered by the seal body (this the case since the body extends only a portion of the radial length, the hinge extends over a second portion of the radial length and the lip extends over a third portion of the radial length).

Regarding claim 18: The liner is bonded to the lip.

Regarding claim 19: The hinge portion receives more bending stresses than the liner (this is the case, since the hinge portion is the one that gets bent).

Regarding claim 20: The lip receives more bending stresses than the liner (this is the case since the lip is the one that gets bent with the hinge portion).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5, 10 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cather, Jr in view of Riesing (US. 2,804,325).

Cather discloses the invention substantially as claimed above but fails to disclose that the polymeric liner has hydrodynamic grooves. Riesing discloses a polymeric liner having hydrodynamic grooves (54). It would have been obvious to one having ordinary skill in the art at the time the invention was made to configure the polymeric liner of Cather to have hydrodynamic grooves as taught by Riesing to provide a more effective seal and to pump fluid away from the sealed surface (column 2, lines 48-52 of Riesing).

***Response to Arguments***

8. Applicant's arguments filed 7/1/05 have been fully considered but they are not persuasive.

Applicants' argument that the against the 112 first paragraph rejection is not persuasive because as seen in figures 1-2 the liner does contact in a radial direction or a radial portion of the case. Furthermore applicant has not pointed out where this limitation (the liner is free from any radial contact with the case) is mentioned in the specification. Furthermore even the reference of Cather does teach that the liner is not bonded to the casing and is capable of moving away from the casing and not contact the casing.

9. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., radial force) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishal Patel whose telephone number is 571-272-7060. The examiner can normally be reached on 6:30am to 8:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3679

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

VP

August 16, 2005



Vishal Patel  
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